

APPEAL NO. 032742
FILED DECEMBER 4, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 22, 2003. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the second quarter. The appellant (carrier) appeals this determination on sufficiency of the evidence grounds. The claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is entitled to second quarter SIBs. Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) establish the requirements for entitlement to SIBs. The carrier contends that the claimant's underemployment during the qualifying period is not a direct result of the impairment from the compensable injury but is due to the claimant's failure to accept or keep jobs offered to him during that time. We have said that an injured employee need only establish that the impairment is a cause of his unemployment or underemployment, and that the direct result requirement is "sufficiently supported by evidence that an injured employee sustained a serious injury with lasting effects and could not reasonably perform the type of work being done at the time of the injury." Texas Workers' Compensation Commission Appeal No. 960028, decided February 15, 1996. Given this standard and the evidence presented, the hearing officer could find, as he did, that the claimant was underemployed as a direct result of the impairment from the compensable injury.

The carrier also asserts that the claimant is not entitled to second quarter SIBs because he did not document a job search for the 13th week of the qualifying period, May 24 through May 30, 2003. We have said that the required documentation need not be limited to the Application for [SIBs] (TWCC-52) but may include memoranda, notes, copies of applications, or written statements of persons with knowledge of the relevant facts. Texas Workers' Compensation Commission Appeal No. 031344, decided July 16, 2003; Texas Workers' Compensation Commission Appeal No. 001177, decided July 12, 2000. Although the claimant's TWCC-52 did not list a job search for the 13th week of the qualifying period, the hearing officer essentially determined that the claimant documented a job contact for that period in the form of a check contained in Claimant's Exhibit No. 4, which was consistent with the claimant's testimony. In view of the applicable law and the documentary evidence, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge